KA/: G-GPO / 2515 / WPP-47 / 2009-2011

ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರ

ಅಧಿಕೃತವಾಗಿ ಪ್ರಕಟಿಸಲಾದುದು

ಸಂಪುಟ ೧೪೫	ಬೆಂಗಳೂರು, ಗುರುವಾರ, ಡಿಸೆಂಬರ್ ೨೩, ೨೦೧೦ (ಪುಷ್ಯ ೨, ಶಕವರ್ಷ ೧೯೩೨)	ಸಂಚಿಕೆ ೫೦

ಭಾಗ – ೪

ಕೇಂದ್ರದ ವಿಧೇಯಕಗಳು ಮತ್ತು ಅವುಗಳ ಮೇಲೆ ಪರಿಶೀಲನಾ ಸಮಿತಿಯ ವರದಿಗಳು, ಕೇಂದ್ರದ ಅಧಿನಿಯಮಗಳು ಮತ್ತು ಅಧ್ಯಾದೇಶಗಳು, ಕೇಂದ್ರದ ಸರ್ಕಾರದವರು ಹೊರಡಿಸಿದ ಸಾಮಾನ್ಯ ಶಾಸನಬದ್ಧ ನಿಯಮಗಳು ಮತ್ತು ಶಾಸನಬದ್ಧ ಆದೇಶಗಳು ಮತ್ತು ರಾಷ್ಟ್ರಪತಿಯವರಿಂದ ರಚಿತವಾಗಿ ರಾಜ್ಯ ಸರ್ಕಾರದವರಿಂದ ಪುನಃ ಪ್ರಕಟವಾದ ಆದೇಶಗಳು

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಸಚಿವಾಲಯ

ಅಧಿಸೂಚನೆ

ಸಂಖ್ಯೆ: ಸಂವ್ಯಶಾಇ 46 ಕೇಶಾಪ್ರ 2010, ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 25ನೇ ಅಕ್ಟೋಬರ್, 2010

2010ನೇ ಸಾಲಿನ ಸೆಪ್ಟೆಂಬರ್ 1ನೇ ದಿನಾಂಕದ ಭಾರತ ಸರ್ಕಾರದ ಗೆಜೆಟ್‌ನ ವಿಶೇಷ ಸಂಚಿಕೆಯ ಭಾಗ–II, ಸೆಕ್ಷೆನ್ 1 ರಲ್ಲಿ ಪ್ರಕಟವಾದ ಈ ಕೆಳಕಂಡ The Land Ports Authority of India Act, 2010 (No. 31 of 2010) ಅನ್ನು ಸಾರ್ವಜನಿಕರ ಮಾಹಿತಿಗಾಗಿ ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರದಲ್ಲಿ ಮರು ಪ್ರಕಟಿಸಲಾಗಿದೆ.

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 1st September, 2010/Bhadra 10, 1932 (Saka)

The following Act of Parliament received the assent of the President on the 31st August, 2010, and is hereby published for general information :-

THE LAND PORTS AUTHORITY OF INDIA ACT, 2010.

No. 31 of 2010

(31st August, 2010*)*

An Act to provide for the establishment of the Land Ports Authority of India to put in place systems which address security imperatives and for the development and management of facilities for cross border movement of passengers and goods at designated points along the international borders of India and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-first Year of the Republic of India as follows :-

CHAPTER I

PRELIMINARY

1 Short title and commencement :- (1) This Act may be called the Land Ports Authority of India Act, 2010.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act, and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

2. Definitions :- In this Act, unless the context otherwise requires, :-

(a) "Authority" means the Land Ports Authority of India constituted under section 3;

(b) "Chairperson" means the Chairperson of the Authority appointed under clause (a) of sub-section (3) of section 3;

(c) "immigration check post" means any port or place of departure on the land as notified under the Foreigners' Act, 1946; (31 of 1946)

(d) "integrated check post" means any land port, as the Central Government may, by notification in the Official Gazette, Specify;

(e) "land customs station" means any place notified as such by the Central Government under clause (b) of sub-section (1) of section 7 of the Customs Act, 1962 (52 of 1962) for the clearance of goods imported or to be exported by land or inland water;

(f) "land port" means an area on the international borders of India including portions national highways, State highways and other roads, notified as land customs station or immigration check post under the Customs Act, 1962 (52 of 1962) or the Foreigners' Act,1946 (31 of 1946) and includes railways, with facilities for clearance and transport of passengers and goods across the borders of India;

(g) "notification" means a notification published in the Official Gazette;

(h) "prescribed" means prescribed by rules made under this Act; and

(i) "regulations" means regulations made by the Authority under this Act.

CHAPTER II

THE LAND PORTS AUTHORITY OF INDIA

3. Constitution of Authority :- (1) With effect from such date as the Central Government may, by notification in the Official Gazette, appoint there shall be constituted an Authority to be known as the Land Ports Authority of India.

(2) The Authority shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power, subject to the provisions of this Act, to acquire, hold and dispose of property both movable and immovable, and to contract and shall by the said name sue and be sued.

(3) The Authority shall consist of :-

(a) a Chairperson;

(b) two Members, out of whom one shall be Member (Planning and Development) and other shall be Member (Finance);

(c) not more than nine members, *ex officio,* to be appointed by the Central Government from amongst the officers, not below the rank of the Joint Secretary to the Government of India, representing the ministries or departments of the Government of India dealing with Home Affairs, External Affairs, Revenue, Commerce, Road Transport and Highways, Railways, Defence, Agriculture and Cooperation, Law and Justice;

(d) the Chief Secretary or his nominee not below the rank of the Secretary to the Government of the respective State where the integrated check posts are located;

(e) two representatives, one of whom shall be from recognised bodies of workers and the other shall be from traders, to be appointed by the Central Government; and

(f) such other representatives as the Central Government may co-opt for functional purposes.

(4) The Chairperson and the members referred to in clause (b) shall be appointed by the Central Government and shall be whole-time members.

(5) The Chairperson shall be chosen from among persons who have special knowledge and experience in the field of security, transport, industry, commerce, law, finance or public administration.

4. Disqualification for office of member :- A person shall be disqualified for being appointed as a member if, he:-

(a) has been convicted and sentenced to imprisonment for an offence, which, in the opinion of the Central Government, involves moral turpitude; or

(b) is an undisharged insolvent; or

(c) is of unsound mind and stands so declared by a competent court: or

(d) has been removed or dismissed from the service of the Government or a body corporate owned or controlled by the Government; or

(e) has in the opinion of the Central Government such financial or other interest in the Authority as is likely to affect prejudicially the discharge by him of his functions as a member.

5. Terms of office and conditions of service of members :- (1) Subject to the provisions of section 6, every whole-time member shall hold office for a period of five years from the date on which he assumes office or till he attains the age of sixty years, whichever is earlier:

Provided that Central Government may:-

(a) terminate the appointment of any whole-time member, after giving him notice of a period of not less than three months or, in lieu thereof, on payment of an amount equal to his salary and allowances, if any, for a period of three months;

(b) terminate at any time the appointment of any member who is a servant of the Government.

(2) The other conditions of service of the members shall be such as may be prescribed.

(3) Any member may resign his office by giving notice in writing for such period as may be prescribed, to the Central Government and, on such resignation being notified in the Official Gazette by that Government, such member shall be deemed to have vacated his office.

6. Vacation of office of members :- The Central Government shall remove a member if, he:-

(a) becomes subject to any of the disqualifications mentioned in section 4:

Provided that no member shall be removed on the ground that he has become subject to the disqualification mentioned in clause (e) of that section, unless he has been given a reasonable opportunity of being heard in the matter; or

(b) refuses to act or becomes incapable of acting; or

(c) is, without obtaining leave of absence from the Authority, absent from three consecutive meetings of the Authority; or

(d) in the opinion of the Central Government, has so abused his position as to render his continuance in office detrimental to the public interest:

`Provided that no member shall be removed under this clause unless he has been given a reasonable opportunity of being heard in the matter.

7. Eligibility of member for re-appointment :- Any person ceasing to be a member shall, unless disqualified under section 4, be eligible for re-appointment.

8. Meetings :- (1) The Authority shall meet at such times and places, and shall observe such rules of procedure in regard to the transaction of business at its meetings (including the quorum at such meetings) as may be provided by regulations.

(2) The Chairperson, or, if for any reason, he is unable to attend any meeting of the Authority, any other member chosen by the members present at the meeting shall preside at the meeting.

(3) All questions which come up before any meeting of the Authority shall be decided by a majority of the votes of the members present and voting, and in the event of an equality of votes, the Chairperson, or in his absence the person presiding, shall have and exercise a second or casting vote.

9. Vacancies, etc., not to invalidate proceedings of Authority :- No act or proceeding of the Authority shall be invalid merely by reason of -

(a) any vacancy in, or any defect in the constitution of, the Authority; or

(b) any defect in the appointment of a person acting as a member of the Authority;

or

(c) any irregularity in the procedure of the Authority not affecting the merits of the case.

10. Officers and other employees of Authority :- (1) For the purpose of enabling it to efficiently discharge its functions under this Act, the Authority shall appoint such number of officers and other employees as it may consider necessary:

Provided that the appointment of such category of officers, as may be specified, shall be subject to the approval of the Central Government.

(2) Every officer or other employee appointed by the Authority shall be subject to such conditions of service and shall be entitled to such remuneration as may be determined by regulations.

CHAPTER III

FUNCTIONS OF AUTHORITY

11. Functions of Authority :- (1) Subject to the provisions of this Act, the Authority shall have powers to develop, sanitize and manage the facilities for cross border movement of passengers and goods at designated points along the international borders ·of India.

(2) Without prejudice to the generality of the provisions contained in sub-section (l), the Authority may-

(a) put in place systems, which address security imperatives at the integrated check posts on the border;

(b) plan, construct and maintain roads, terminals and ancillary buildings other than national highways, State highways and railways, at an integrated check post;

(c) plan, procure, install and maintain communication, security, goods handling and scanning equipment at an integrated check post;

(d) provide appropriate space and facilities for immigration, customs, security, taxation authorities, animal and plant quarantine, warehouses, cargo and baggage examination yards, parking zones, banks, post offices, communication facilities, tourist information centres, waiting halls, canteen, refreshment stalls, public conveniences, health services and such other services, as may be deemed necessary;

(e) construct residential buildings for its employees as well as residential accommodation for staff deployed at integrated check posts;

(f) establish and maintain hotels, restaurants and restrooms;

(g) establish and maintain warehouses, container depots and cargo complexes for the storage or processing of goods;

(h) arrange for postal, money exchange, insurance and telephone facilities for the use of passengers and other persons at integrated check posts;

(i) make appropriate arrangements for the security of integrated check posts and provide for regulation and control of movement of vehicles, entry and exit of passengers and goods in accordance with the respective law concerning them;

(j) ensure prevention and control of fire and other hazards and other facilities as deemed necessary;

(k) regulate and control the movement of vehicles, and the entry and exit of passengers, transportation workers, handling agents, clearing and forwarding agents and goods at the integrated check post with due regard to the law, security and protocol of the Government of India;

(l) co-ordinate and facilitate the working of agencies who have been engaged to undertake various activities at the integrated check posts, in accordance with the respective law, for the time being in force;

(m) develop and provide consultancy, construction or management services, and undertake operations in India and abroad in relation to an integrated check post;

(n) form one or more companies under the Companies Act, 1956 (1 of 1956) or under any other law relating to companies for efficient discharge of the functions imposed on it by this Act;

(0) take all such steps as may be necessary expedient for, or may be incidental to, the exercise of any power or the discharge of any function conferred or imposed on it by this Act:

Provided that sovereign functions of the Authority shall not be assigned to any private entity;

(p) set up joint ventures for the discharge of any of the functions assigned to the Authority; and

(q) undertake any other activity at the integrated check post in the best commercial interests of the Authority.

(3) In the discharge of its functions under this section, the Authority may consult such ministry or department of the Government of India or of the State Government as it deems necessary, and shall have due regard to the development of land port services and to the efficiency, economy and safety of such service.

(4) Nothing contained in this section shall be construed as-

(a) authorising the disregard by the Authority of any law for the time being in force; or

(b) authorising any person to institute any proceeding in respect of duty or liability to which the Authority or its officers or other employees would not otherwise be subject to.

12. Responsibilities and powers of other agencies:- (1) The respective border guarding forces deployed at the borders of India shall be responsible for security around an integrated check post.

(2) The Authority may, whenever considered necessary so to do for ensuring the peace and security at an integrated check post, seek the assistance of armed force, Central para military force or State police as per the provisions of the law for the time being in force.

(3) The Customs, immigration, quarantine and other officials shall co-ordinate with the Authority for the effective discharge of its functions.

(4)Not withstanding anything contained in any provisions of this Act, the Customs, immigration, quarantine officials, the border guarding forces and the police shall discharge their functions in accordance with the law for the time being in force, •.

CHAPTER IV
PROPERTY AND CONTRACT

13. Assets and liabilities to vest in Authority:- (1) On the date of notification issued under clause (d) of section 2, all such assets, rights, powers, authorities and privileges and such property movable and immovable, real or personal, corporeal or incorporeal, present or contingent, of whatever nature, including lands, buildings, machinery, equipments, works, workshops, cash, balances, capital, reserves, reserve funds, investments, tenancies, losses and book debts and all other rights and interests arising out of such property, as immediately before the issue of that notification, were in the ownership or possession of the Government of India in any of the land port, as the Central Government may, in such notification, specify, shall vest in the Authority and such vesting shall also be deemed to include an borrowings, liabilities and obligations of whatever kind then subsisting.

(2) The notification under sub-section (1) shall be issued only after the concurrence of the concerned ministries or departments of the Government of India, in case where such properties are owned or controlled by such ministries or departments.

14. General effect of vesting of undertakings in Authority :- All contracts, agreements and working arrangements subsisting immediately before the date of notification issued under clause (d) of section 2, and affecting the land ports shall be of full force and effect as regards the Authority.

15. Guarantee to be operative :- Any guarantee given for or in favor of land customs stations or immigration check posts with respect to a loan, lease or finance shall continue to be operative in relation to such stations or check posts which have been vested in the Authority by virtue of this Act.

16. Compulsory acquisition of land for Authority :- Any land required by the Authority for the discharge of its functions under this Act shall be deemed to be needed for public purpose and such land may be acquired for the Authority under the provisions of the National Highways Act, 1956 (48 of 1956) or any other law for the time being in force.

17. Contracts by Authority :- Subject to the provisions of section 18, the Authority shall be competent to enter into and perform any contract necessary for the discharge of its functions under this Act.

18. Mode of executing contracts on behalf of Authority :- (1) Every contract on behalf of the Authority, shall be made by the Chairperson or such officer of the Authority as may be generally or specially empowered in this behalf by the Authority and such contracts as may be specified, in the regulations, shall be sealed with the common seal of the Authority:

Provided that no contract exceeding such value or amount as the Central Government may, by order fix in this behalf, shall be made unless it has been previously approved by the Central Government:

Provided further that no contract for the acquisition or sale of immovable property or for the lease of any such property for a term exceeding thirty years and no other contract exceeding such value or amount as the Central Government may, by order fix in this behalf, shall be made unless it has been previously approved by the Central Government.

(2) Subject to the provisions of sub-section (1), the form and manner in which any contract shall be made under this Act shall be such as may be provided by regulations.

(3) Any contract which is not in accordance with the provisions of this Act and the rules and regulations made thereunder shall not be binding on the Authority.

CHAPTER V
FINANCE, ACCOUNTS AND AUDIT

19. Power of Authority to charge fees, rent etc. :- The Authority may, determine and charge such fees or rent, not being a statutory levy under any other Act, as may be provided by regulations, separately for each integrated check post,- .

(a) for the cargo handling, warehousing, parking of trucks or for any other service or facility offered in connection with transport operations;

(b) for the parking of passenger vehicles and other amenities given to the passengers and visitors; and

(c) for the availing of facilities and other services provided by the Authority.

20. Additional capital and grant to Authority by Central Government :- The Central Government may, after the appropriation made by Parliament by law in this behalf,-

(a) provide any capital that may be required by the Authority for the discharge of its functions under this Act or for any purpose connected therewith on such terms and conditions as that Government may determine;

(b) pay to the Authority, on such terms and conditions as the Central Government may determine, by way of loans or grants such sums of money as that Government may consider necessary for the efficient discharge of its functions under this Act.

21. Fund of Authority and its investment :- (1) The Authority shall establish its own fund and all receipts of the Authority shall be credited thereto and all payments by the Authority shall be made therefrom.

2) The Authority shall have the power, subject to the provisions of this Act, to spend such sums as it thinks fit to cover all administrative expenses of the Authority or for purposes authorised by this Act and such sums shall be treated as expenditure out of the fund of the Authority.

3) AII moneys standing at the credit of the Authority which cannot immediately be applied as provided in sub-section (2), shall be-

(a) deposited in the State Bank of India or any such scheduled bank or banks or other public financial institutions subject to such conditions as may, from time to time, be specified by the Central Government;

(b) invested in the securities of the Central Government or in such manner as may be prescribed.

Explanation.- In this sub-section, "scheduled bank" has the same meaning as in clause (e) of section 2 of the Reserve Bank of India' Act, 1934 (2 of 1934).

22. Allocation of surplus funds :- (1) The Authority may, from time to time, set apart such amounts as it thinks fit, as a reserve fund or funds for the purpose of expanding existing facilities or services or creating surplus funds new facilities or services at any integrated check post or increase of expenditure from transient causes or for purposes of replacement or meeting expenditure arising from loss or damage due to any natural calamity or accident or meeting any liability arising out of any act of omission or commission in the discharge of its functions under this Act:

Provided that the Authority shall also have the power to establish specific reserves for specific purposes:

Provided further that the sums set apart annually in respect of each or any of the specific and general reserves and the aggregate at any time of such sums shall not exceed such limits as may, from time to time, be fixed in that behalf by the Central Government.

(2) After making provision for such reserve fund or funds and for bad and doubtful debts, depreciation in assets and all other matters which are usually provided for by companies registered and incorporated under the Companies Act, 1956 (1 of 1956), the Authority shall pay the balance of its annual net profits to the Central Government.

23. Submission of programme of activities and financial estimates :- The Authority shall, before the commencement of each financial year prepare a statement of the programme of its activities during the forthcoming financial year as well as financial estimate in respect thereof and submit it for the approval of the Central Government.

24. Borrowing powers of Authority :- (1) The Authority may, with the consent of the Central Govemnent or in accordance with the terms of any general or special authority given to it by the Central Government, borrow money from any source by the issue of bonds, debentures or such other instruments as it may deem fit for discharging all or any of its functions under this Act.

(2) The Central Government may guarantee in such manner as it thinks fit, the repayment of the principal and the payment of interest thereon with respect to the loans taken by the Authority under sub-section (1).

(3) Subject to such limits as the Central Government may, from time to time, lay down, the Authority may borrow temporarily by way of overdraft or otherwise, such amount as it may require for discharging its functions under this Act.

25. Accounts and audit :- (1) The Authority shall maintain proper accounts and other relevant records and prepare an annual statement of accounts including the profit and loss account and the balance sheet in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the Authority shall be audited annually by the Comptroller and Auditor General of India and any expenditure incurred by him in connection with such audit shall be reimbursed to him by the Authority.

(3) The Comptroller and Auditor-General of India and any person appointed by him in connection with the audit of the accounts of the Authority shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor General has in connection with the audit of Government accounts and, in particular shall have the right to demand the production of books, accounts, connected vouchers, documents and papers and inspect any of the offices of the Authority.

(4) The accounts of the Authority as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before both Houses of Parliament.

CHAPTER VI
MISCELLANEOUS

26. Submission of annual report :- (1) The Authority shall, as soon as may be, after the end of each financial year, prepare and submit to the Central Government in such form as may be prescribed, a report giving an account of its activities during that financial year and the report shall also give an account of the activities which are likely to be undertaken by the Authority during the next financial year.

(2) The Central Government shall cause such report to be laid before both Houses of Parliament, as soon as may be, after it is submitted.

27. Delegation :- The Authority may, by general or special order in writing, delegate to the Chairperson or any other member or to any officer of the Authority, subject to such conditions and limitations, if any, as may be specified in the order, such of its powers and functions under this Act (except the powers under section 35), as it may deem necessary.

28. Authentication of orders and other instruments of Authority :- All orders and decisions of the Authority shall be authenticated by the signature of the Chairperson or any other member authorised by the Authority in this behalf and all other instruments executed by the Authority shall be authenticated by the signature of an officer of the Authority authorised by it in this behalf.

29. Officers and employees of Authority to be public servants:- All officers and employees of Authority shall, while acting or purporting to act in pursuance of the provisions of this Act or of any rule or regulation made thereunder, be deemed to be public servants within the meaning of section 21 (45 of 1860) of the Indian Penal Code.

30. Protection of action taken in good faith :- No suit, prosecution or other legal proceeding shall lie against the Authority or any member or any officer or other employee of the Authority for anything which is in good faith done or intended to be done in pursuance of this Act or of any rule or regulation made thereunder.

31. Custody and disposal of lost property :- Subject to such regulations as the Authority may make in this behalf, the Authority shall provide for securing the safe custody and restoration of any property which, while not in proper custody, is found on any premises belonging to the Authority or under its overall control.

32. Power of Central Government to supersede Authority :- (I) If, at any time, the Central Government is of opinion-

(a) that on account of a grave emergency, the Authority is unable to-discharge the functions and duties imposed on it by or under the provisions of this Act; or

(b) that the Authority has persistently defaulted in complying with any direction issued by the Central Government under this Act or in the discharge of the functions and duties imposed on it by or under the provisions of this Act and as a result of default the financial position of the Authority or the administration of an integrated check post has deteriorated; or

(c) that circumstances exist which render it necessary in the public interest so to do,

the Central Government may, by notification in the Official Gazette, supersede the Authority for such period, not exceeding six months, as may be specified in the notification:

Provided that before issuing a notification under this sub-section for the reasons mentioned in clause (b), the Central Government shall give a reasonable opportunity to the Authority to show cause why it should not be superseded and shall consider the explanations and objections, if any, of the Authority.

(2) Upon the publication of a notification under sub-section (1) superseding the Authority,-

(a) all the members shall, as from the date of supersession, vacate their offices as such;

(b) all the powers, functions and duties which may, by or under the provisions of this Act, be exercised or discharged by or on behalf of the Authority, shall until the Authority is reconstituted under sub-section (3), be exercised and discharged by such person or persons as the Central Government may direct; and

(c) all property owned or controlled by the Authority shall, until the Authority is reconstituted under sub-section (3), vest in the Central Government.

(3) On the expiration of the period of supersession specified in the notification issued under sub-section (1), the Central Government may,-

(a) extend the period of supersession for such further term not exceeding six months, as it may consider necessary, or

(b) reconstitute the Authority by fresh appointment and in such case the members who vacated their offices under clause (a) of sub-section (2) shall not be deemed disqualified for appointment:

Provided that the Central Government may, at any time before the expiration of the period of suppression, whether as originally specified under sub-section (I) or as extended under this sub-section, take action under clause (b) of this sub-section.

(4) The Central Government shall cause a notification issued under sub-section (1) and a full report of any action taken under this section and the circumstances leading to such action to be laid before both Houses of Parliament in the immediate subsequent session of Parliament.

33. Power of Central Government to issue directions :- (1) Without prejudice to the foregoing provisions of this Act, the Authority shall, in the discharge of its functions and duties under this Act, be bound by such direction on questions of policy as the Central Government may give in writing to it from time to time.

Provided that the Authority shall, as far as practicable, be given opportunity to express in views before any direction is given under this sub-section.

(2) The decision of the Central Government whether a question is one of policy or not shall be final.

(3) The Central Government may, from time to time, issue directions to the Authority regarding the discharge of any functions by it under the clauses of sub-section (2) of section 11 and the Authority shall be bound to comply with such directions.

34. Power to make rules :- (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for:-

(a) the other conditions of service of members of the Authority under sub section (2) of section 5;

(b) the period of notice as may be given by any member to resign his office under sub-section(3) of section 5;

(c) the manner in which the Authority may invest the funds under clause (b) of sub-section (3) of section 21;

(d) the form in which the annual statement of accounts shall be prepared by the Authority under sub-section (1) of section;

(e) the form in which a report giving an account of its activities shall be prepared and submitted by the Authority to the Central Government under sub-section(1) of section 26; and

(f) any other matter which is to be, or may be, prescribed.

35. Power to make regulations:- (1) The Authority may, with the previous approval of the Central Government, make regulations not inconsistent with this Act and the rules made thereunder for the purpose of giving effect to the provisions of this Act.

(2) Without prejudice to the generality of the foregoing power, such regulations may provide for:-

(a) the time and places of meetings of the Authority and the procedure to be followed for transaction of business including the quorum at such meetings under sub-section (1) of section 8;

(b) the conditions of service and the remuneration of officers and other employees to be appointed by the Authority under sub-section (2) of section 10;

(c) the contracts which are to be sealed with the common seal of the Authority under sub-section (1), and the form and manner in which a contract may be made by the Authority under sub-section (2) of section 18;

(d) the fees and rent to be charged by the Authority under sub-section (1) of section. 19;

(e) the custody and restoration of lost property and the terms and conditions under which lost property may be restored to the persons entitled thereto under section 31.

36. Rules, regulations and notifications to be laid before Parliament :- Every rule and every regulation made or notification issued under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule, regulation or notification, as the case may be, or both Houses agree that the rule, regulation or notification, as the case may be, should not be made or issued, the rule, regulation or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule, regulation or notification.

37. Power to remove difficulties :- (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by general or special order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for the removal of the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the date of the commencement of this Act.

(2) Every order made under this section shall as soon as may be after it is made, be laid before each House of Parliament

V. K. BHASIN,
Secy. to the Govt. of India.

ಕರ್ನಾಟಕ ರಾಜ್ಯಪಾಲರ ಆದೇಶಾನುಸಾರ ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ,
ಆರ್. ಆಂಜಿನಿ,
ಸಹಾಯಕ ಪ್ರಾರೂಪಕಾರ ಮತ್ತು ಪದನಿಮಿತ್ತ
ಸರ್ಕಾರದ ಉಪ ಕಾರ್ಯದರ್ಶಿ,
ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಇಲಾಖೆ.

PR. No. 67

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಸಚಿವಾಲಯ

ಅಧಿಸೂಚನೆ

ಸಂಖ್ಯೆ: ಸಂವ್ಯಶಾಇ 45 ಕೇಶಾಪ್ರ 2010, ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 25ನೇ ಅಕ್ಟೋಬರ್, 2010

2010ನೇ ಸಾಲಿನ ಸೆಪ್ಟೆಂಬರ್ 4ನೇ ದಿನಾಂಕದ ಭಾರತ ಸರ್ಕಾರದ ಗೆಜೆಟ್‌ನ ವಿಶೇಷ ಸಂಚಿಕೆಯ ಭಾಗ–II, ಸೆಕ್ಷನ್ 1 ರಲ್ಲಿ ಪ್ರಕಟವಾದ ಈ ಕೆಳಕಂಡ The Indian Medical Council (Amendment) Act, 2010, (No. 32 of 2010) ಅನ್ನು ಸಾರ್ವಜನಿಕರ ಮಾಹಿತಿಗಾಗಿ ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರದಲ್ಲಿ ಮರು ಪ್ರಕಟಿಸಲಾಗಿದೆ.

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 4th, September 2010/Bhadra 13, 1932 (Saka)

The following Act of Parliament received the assent of the President on the 4th September, 2010, and is hereby published for general information :-

THE INDIAN MEDICAL COUNCIL(AMENDMENT) ACT, 2010.

No. 32 of 2010

(4th September, 2010)

An Act further to amend the Indian Medical Council Act, 1956.

BE it enacted by Parliament in the Sixty-first Year of the Republic of India as follows :-

1. Short title and commencement :- (1) This Act may be called the Indian Medical Council (Amendment) Act, 2010.

(2) It shall be deemed to have come into force on the 15th day of the May, 2010.

2. Insertion of new sections 3A, 3B and 3C :- After section 3 of the Indian Medical Council Act, 1956 (hereinafter referred to as the principal Act), the following sections shall be inserted, namely:-

'3A. Power of Central Government to supersede the Council and to constitute a Board of Governors.

(1) On and from the date of commencement of the Indian Medical Council (Amendment) Act, 2010, the Council shall stand superseded and the President, Vice-President and other members of the Council shall vacate their offices and shall have no claim for any compensation, whatsoever.

(2) The Council shall be reconstituted in accordance with the provisions of section 3 within a period of one year from the date of supersession of the Council under sub-section (1).

(3) Upon the supersession of the Council under sub-section (1) and until a new Council is constituted in accordance with section 3, the Board of Governors constituted under sub-section (4) shall exercise the powers and perform the functions of the Council under this Act.

(4) The Central Government shall, by notification in the Official Gazette, constitute the Board of Governors which shall consist of not more than seven persons as its members, who shall be persons of eminence and of unimpeachable integrity in the fields of medicine and medical education, and who may be either nominated members or members, *ex officio,* to be appointed by the Central Government, one of whom shall be named by the Central Government as the Chairperson of the Board of Governors.

(5) The Chairperson and the other members, other than the members, ex officio, shall be entitled to such sitting fee and travelling and other allowances as may be determined by the Central Government.

(6) The Board of Governors shall meet at such time and places and shall observe such rules of procedure in regard to the transaction of business at its meetings as is applicable to the Council.

(7) Two-third of the members of the Board of Governors shall constitute the quorum for its meetings.

(8) No act or proceedings of the Board of Governors shall be invalid merely by reason of-

(a) any vacancy in, or any defect in the constitution of, the Board of Governors; or

(b) any irregularity in the procedure of the Board of Governors not affecting the merits of the case.

(9) A member having any financial or other interest in any matter coming before the Board of Governors for decision shall disclose his interest in the matter before he may, if allowed by the Board of Governors, participate in such proceedings.

(10) The Chairperson and the other members of the Board of Governors shall hold office during the pleasure of the Central Government.

3B. Certain modifications of the Act :- During the period when the Council stands superseded,-

(a) the provisions of this Act shall be construed as if for the word "Council", the words "Board of Governors" were substituted;

(b) the Board of Governors shall-

(i) exercise the powers and discharge the functions of the Council under this Act and for this purpose, the provisions of this Act shall have effect subject to the modification that references therein to the Council shall be construed as references to the Board of Governors;

(ii) grant independently permission for establishment of new medical colleges or opening a new or higher course of study or training or increase in admission capacity in any course of study or training referred to in section 10A or giving the person or college concerned a reasonable opportunity of being heard as provided under section 10A without prior permission of the Central Government under that section, including exercise of the power to finally approve or disapprove the same; and

(iii) dispose of the matters pending with the Central Government under section 10A upon receipt of the same from it.

3C. Power of Central Government to give directions :- (1) Without prejudice to the provisions of this Act, the Board of Governors or the Council after its reconstitution shall, in exercise of its powers and in the performance of its functions under this Act, be bound by such directions on questions of policy, other than those relating to technical and administrative matters, as the Central Government may give in writing to it from time to time:

Provided that the Board of Governors or the Council after its reconstitution shall, as far as practicable, be given an opportunity to express its views before any direction is given under this sub-section.

(2) The decision of the Central Government whether a question is a matter of policy or not shall be final;

3. Repeal and saving :- (1) The Indian Medical Council (Amendment) Ordinance, 2010, (Ord. 2 of 2010) is hereby repealed.

(2) Notwithstanding the repeal of the Indian Medical Council (Amendment) Ordinance, 2010, (Ord. 2 of 2010), anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Act,

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ಆರ್. ಆಂಜಿನಿ,
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ಸರ್ಕಾರದ ಉಪ ಕಾರ್ಯದರ್ಶಿ,
ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಇಲಾಖೆ.

PR. No. 68

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಸಚಿವಾಲಯ

ಅಧಿಸೂಚನೆ

ಸಂಖ್ಯೆ: ಸಂವ್ಯಶಾಇ 47 ಕೇಶಾಪ್ರ 2010, ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 25ನೇ ಅಕ್ಟೋಬರ್, 2010

2010ನೇ ಸಾಲಿನ ಸೆಪ್ಟೆಂಬರ್ 22ನೇ ದಿನಾಂಕದ ಭಾರತ ಸರ್ಕಾರದ ಗೆಜೆಟ್‌ನ ವಿಶೇಷ ಸಂಚಿಕೆಯ ಭಾಗ–II ಸೆಕ್ಷೆನ್ 1 ರಲ್ಲಿ ಪ್ರಕಟವಾದ ಈ ಕೆಳಕಂಡ The Civil Liability for Nuclear Damage Act, 2010 (No. 38 of 2010) ಅನ್ನು ಸಾರ್ವಜನಿಕರ ಮಾಹಿತಿಗಾಗಿ ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರದಲ್ಲಿ ಮರು ಪ್ರಕಟಿಸಲಾಗಿದೆ.

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 22nd September, 2010/Bhadra 31, 1932 (Saka)

The following Act of Parliament received the assent of the President on the 21st September, 2010, and is hereby published for general information:-

THE CIVIL LIABILITY FOR NUCLEAR DAMAGE ACT, 2010

No. 38 of 2010

(21ST September, 2010)

An Act to provide for civil liability for nuclear damage and prompt compensation to the victims of a nuclear incident through a no-fault liability regime channeling liability to the operator, appointment of Claims Commissioner, establishment of Nuclear Damage Claims Commission and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:-

CHAPTER I

PRELIMINARY

1. Short title, extent, application and commencement:- (1) This Act may be called the Civil Liability for Nuclear Damage Act, 2010.

(2) It extends to the whole of India.

(3) It also applies to nuclear damage suffered-

(a) in or over the maritime areas beyond the territorial waters of India;

(b) in or over the exclusive economic zone of India as referred to in section 7 of the Territorial Waters, Continental Shelf, Exclusive Economic Zone and Other Maritime Zones Act, 1976; (80 of 1976).

(c) on board or by a ship registered in India under section 22 of the Merchant Shipping Act, 1958 (44 of 1958) or under any other law for the time being in force;

(d) on board or by an aircraft registered in India under clause (d) of sub-section (2) of section 5 of the Aircraft Act, 1934 (22 of 1934)or under any other law for the time being in force;

(e) on or by an artificial island, installation or structure under the jurisdiction of India.

(4) It applies only to the nuclear installation owned or controlled by the Central Government either by itself or through any authority or corporation established by it or a Government company.

Explanation.- For the purposes of this sub-section, "Government company" shall have the same meaning as assigned to it in clause (bb) of sub-section (1) of section 2 of the Atomic Energy Act, 1962. (33 of 1962).

(5) It shall come into force on such date as the Central Government may, by notification, appoint; and different dates may be appointed for different provisions of this Act, and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

2. *Definitions:-* In this Act, unless the context otherwise requires,-

(a) "Chairperson" means the Chairperson of the Commission appointed under sub-section (1) of section 20;

(b) "Claims Commissioner" means the Claims Commissioner appointed under sub-section (2) of section 9;

(c) "Commission" means the Nuclear Damage Claims Commission established under section 19;

(d) “environment” shall have the same meaning as assigned to it in clause (a) of section 2 of the Environment (Protection) Act, 1986; (29 of 1986).

(e) “Member “ means a Member of the Commission appointed under sub-section (1) of section 20;

(f) “notification” means a notification published in the Official Gazette and the term “notify” shall be construed accordingly;

(g) “nuclear damage” means-

(i) loss of life or personal injury (including immediate and long term health impact) to a person; or

(ii) loss of, or damage to, property, caused by or arising out of a nuclear incident, and includes each of the following to the extent notified by the Central Government;

(iii) any economic loss, arising from the loss or damage referred to in sub-clauses (i) or (ii) and not included in the claims made under those sub-clauses, if incurred by a person entitled to claim such loss or damage;

(iv) costs of measures of reinstatement of impaired environment caused by a nuclear incident, unless such impairment is insignificant, if such measures are actually taken or to be taken and not included in the claims made under sub-clause (ii);

(v) loss of income derived from an economic interest in any use or enjoyment of the environment, incurred as a result of a significant impairment of that environment caused by a nuclear incident, and not included in the claims under sub-clause (ii);

(vi) the costs of preventive measures, and further loss or damage caused by such measures;

(vii) any other economic loss, other than the one caused by impairment of the environment referred to in sub-clauses (iv) and (v), in so far as it is permitted by the general law on civil liability in force in India and not claimed under any such law,

in the case of sub-clauses (i) to (v) and (vii) above, to the extent the loss or damage arises out of, or results from, ionizing radiation emitted by any source of radiation inside a nuclear installation, or emitted from nuclear fuel or radioactive products or waste in, or of, nuclear material coming from, originating in, or sent to, a nuclear installation, whether so arising from the radioactive properties of such matter, or from a combination of radioactive properties with toxic, explosive or other hazardous properties of such matter;

(h) "nuclear fuel" means any material which is capable of producing energy by a self-sustaining chain process of nuclear fission;

(i) "nuclear incident" means any occurrence or series of occurrences having the same origin which causes nuclear damage or, but only with respect to preventive measures, creates a grave and imminent threat of causing such damage;

(j) "nuclear installation" means-

(A) any nuclear reactor other than one with which a means of transport is equipped for use as a source of power, whether for propulsion thereof or for any other purpose;

(B) any facility using nuclear fuel for the production of nuclear material, or any facility for the processing of nuclear material, including re-processing of irradiated nuclear fuel; and

(C) any facility where nuclear material is stored (other than storage incidental to the carriage of such material).

Explanation.-For the purpose of this clause, several nuclear installations of one operator which are located at the same site shall be considered as a single nuclear installation;

(k) "nuclear material" means and includes-

(i) nuclear fuel (other than natural uranium or depleted uranium) capable of producing energy by a self-sustaining chain process of nuclear fission outside a nuclear reactor, either by itself or in combination with some other material; and

(ii) radioactive products or waste;

(l) "nuclear reactor" means any structure containing nuclear fuel in such an arrangement that a self-sustaining chain process of nuclear fission can occur therein without an additional source of neutrons;

(m) "operator", in relation to a nuclear installation, means the Central Government or any authority or corporation established by it or a Government company who has been granted a license pursuant to the Atomic Energy Act, 1962 (33 of 1962) for the operation of that installation;

(n) "prescribed" means prescribed by rules made under this Act;

(o) "preventive measures" means any reasonable measures taken by a person after a nuclear incident has occurred to prevent or minimise damage referred to in sub-clauses (i) to (v) and (vii) of clause (g), subject to the approval of the Central Government;

(p) "radioactive products or waste" means any radioactive material produced in, or any material made radioactive by exposure to, the radiation incidental to the production or utilisation of nuclear fuel, but does not include radioisotopes which have reached the final stage of fabrication so as to be usable for any scientific, medical, agricultural, commercial or industrial purpose;

(q) "Special Drawing Rights" means Special Drawing Rights as determined by the International Monetary Fund.

CHAPTER II

LIABILITY FOR NUCLEAR DAMAGE

3. Atomic Energy Regulatory Board to notify nuclear incident:- (1) The Atomic Energy Regulatory Board constituted under the Atomic Energy Act, 1962 (33 of 1962) shall, within a period of fifteen days from the date of occurrence of a nuclear incident, notify such nuclear incident:

Provided that where the Atomic Energy Regulatory Board is satisfied that the gravity of threat and risk involved in a nuclear incident is insignificant, it shall not be required to notify such nuclear incident.

(2) The Atomic Energy Regulatory Board shall, immediately after the notification under sub-section (1) is issued, cause wide publicity to be given to the occurrence of such nuclear incident, in such manner as it may deem fit .

4. Liability of operator :- (1) The operator of the nuclear installation shall be liable for nuclear damage caused by a nuclear incident -

(a) in that nuclear installation; or

(b) involving nuclear material coming from, or originating in, that nuclear installation and occurring before -

(i) the liability for nuclear incident involving such nuclear material has been assumed, pursuant to a written agreement, by another operator; or

(ii) another operator has taken charge of such nuclear material; or

(iii) the person duly authorised to operate a nuclear reactor has taken charge of the nuclear material intended to be used in that reactor with which means of transport is equipped for use as a source of power, whether for propulsion thereof or for any other purpose; or

(iv) such nuclear material has been unloaded from the means of transport by which it was sent to a person within the territory of a foreign State; or

(c) involving nuclear material sent to that nuclear installation and occurring after-

(i) the liability for nuclear incident involving such nuclear material has been transferred to that operator, pursuant to a written agreement, by the operator of another nuclear installation; or

(ii) that operator has taken charge of such nuclear material; or

(iii) that operator has taken charge of such nuclear material from a person operating a nuclear reactor with which a means of transport is equipped for use as a source of power, whether for propulsion thereof or for any other purpose; or

(iv) such nuclear material has been loaded, with the written consent of that operator, on the means of transport by which it is to be carried from the territory of a foreign State.

(2) Where more than one operator is liable for nuclear damage, the liability of the operators so involved shall, in so far as the damage attributable to each operator is not separable, be joint and several:

Provided that the total liability of such operators shall not exceed the extent of liability specified under sub-section (2) of section 6.

(3) Where several nuclear installations of one and the same operator are involved in a nuclear incident, such operator shall, in respect of each such nuclear installation, be liable to the extent of liability specified under sub-section (2) of section 6.

(4) The liability of the operator of the nuclear installation shall be strict and shall be based on the principle of no-fault liability.

Explanation.- For the purposes of this section,-

(a) where nuclear damage is caused by a nuclear incident occurring in a nuclear installation on account of temporary storage of material- in-transit in such installation, the person responsible for transit of such material shall be deemed to be the operator;

(b) where a nuclear damage is caused as a result of nuclear incident during the transportation of nuclear material, the consignor shall be deemed to be the operator;

(c) where any written agreement has been entered into between the consignor and the consignee or, as the case may be, the consignor and the carrier of nuclear material, the person liable for any nuclear damage under such agreement shall be deemed to be the operator;

(d) where both nuclear damage and damage other than nuclear damage have been caused by a nuclear incident or, jointly by a nuclear incident and one or more other occurrences, such other damage shall, to the extent it is not separable from the nuclear damage, be deemed to be a nuclear damage caused by such nuclear incident.

5. Operator not liable in certain circumstances:- (1) An operator shall not be liable for any nuclear damage where such damage is caused by a nuclear incident directly due to-

(i) a grave natural disaster of an exceptional character; or

(ii) an act of armed conflict, hostility, civil war, insurrection or terrorism.

(2) An operator shall not be liable for any nuclear damage caused to-

(i) the nuclear installation itself and any other nuclear installation including a nuclear installation under construction, on the site where such installation is located; and

(ii) to any property on the same site which is used or to be used in connection with any such installation; or

(iii) to the means of transport upon which the nuclear material involved was carried at the time of nuclear incident:

Provided that any compensation liable to be paid by an operator for a nuclear damage shall not have the effect of reducing the amount of his liability in respect of any other claim for damage under any other law for the time being in force.

(3) Where any nuclear damage is suffered by a person on account of his own negligence or from his own acts of commission or omission, the operator shall not be liable to such person.

6. Limits of liability:- (1) The maximum amount of liability in respect of each nuclear incident shall be the rupee equivalent of three hundred million Special Drawing Rights or such higher amount as the Central Government may specify by notification:

Provided that the Central Government may take additional measures, where necessary, if the compensation to be awarded under this Act exceeds the amount specified under this sub-section.

(2) The liability of an operator for each nuclear incident shall be-

(a) in respect of nuclear reactors having thermal power equal to or above ten MW, rupees one thousand five hundred crores;

(b) in respect of spent fuel reprocessing plants, rupees three hundred crores;

(c) in respect of the research reactors having thermal power below ten MW, fuel cycle facilities other than spent fuel reprocessing plants and transportation of nuclear materials, rupees one hundred crores:

Provided that the Central Government may review the amount of operator's liability from time to time and specify, by notification, a higher amount under this sub-section:

Provided further that the amount of liability shall not include any interest or cost of proceedings.

7. Liability of Central Government :- (1) The Central Government shall be liable for nuclear damage in respect of a nuclear incident,-

(a) where the liability exceeds the amount of liability of an operator specified under sub-section (2) of section 6, to the extent such liability exceeds such liability of the operator;

(b) occurring in a nuclear installation owned by it; and

(c) occurring on account of causes specified in clauses (i) and (ii) of sub-section (1) of section 5:

Provided that the Central Government may, by notification, assume full liability for a nuclear installation not operated by it if it is of the opinion that it is necessary in public interest.

(2) For the purpose of meeting part of its liability under clause (a) or clause (c) of sub-section (1), the Central Government may establish a fund to be called the Nuclear Liability Fund by charging such amount of levy from the operators, in such manner, as may be prescribed,

8. Operator to maintain insurance or financial securities:- (1) The operator shall, before he begins operation of his nuclear installation, take out insurance policy or such other financial security or combination of both, covering his liability under sub-section (2) of section 6, in such manner as may be prescribed.

(2) The operator shall from time to time renew the insurance policy or other financial security referred to in sub-section (1), before the expiry of the period of validity thereof.

(3) The provisions of sub-sections (1) and (2) shall not apply to a nuclear installation owned by the Central Government,

Explanation.-For the purposes of this section, “financial security” means a contract of indemnity or guarantee, or shares or bonds or such instrument as may be prescribed or any combination thereof.

CHAPTER III

CLAIMS COMMISSIONER

9. Compensation for nuclear damage and its adjudication:- (1) whoever suffers nuclear damage shall be entitled to claim compensation in accordance with the provisions of this Act.

(2) For the purposes of adjudicating upon claims for compensation in respect of nuclear damage, the Central Government shall, by notification, appoint one or more Claims Commissioners for such area, as may be specified in that notification.

10. Qualifications for appointment as Claims Commissioner:- A person shall not be qualified for appointment as a Claims Commissioner unless he-

(a) is, or has been, a District Judge; or

(b) in the service of the Central Government and has held the post not below the rank of Additional Secretary to the Government of India or any other equivalent post in the Central Government.

11. Salary, allowances and other terms and conditions of service of Claims Commissioner:- The salary and allowances payable to and other terms and conditions of service of Claims Commissioner shall be such as may be prescribed.

12. Adjudication procedure and powers of Claims Commissioner:- (1) For the purposes of adjudication of claims under this Act, the Claims Commissioner shall follow such procedure as may be prescribed.

(2) For the purpose of holding inquiry, the Claims Commissioner may associate with him such persons having expertise in the nuclear field or such other persons and in such manner as may be prescribed.

(3) Where any person is associated under sub-section (2), he shall be paid such remuneration, fee or allowance, as may be prescribed.

(4) The Claims Commissioner shall, for the purposes of discharging his functions under this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908,(5 of 1908) while trying a suit, in respect of the following matters, namely:- (a) summoning and enforcing the attendance of any person and examining him on oath;

(b) the discovery and production of documents;

(c) receiving evidence on affidavits;

(d) requisitioning any public record or copies thereof from any court or office;

(e) issuing of commission for the examination of any witness;

(f) any other matter which may be prescribed.

(5) The Claims Commissioner shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).

CHAPTER IV

CLAIMS AND AWARDS

13. Inviting application for claims by Claims Commissioner:- After the notification of nuclear incident under sub-section (1) of section 3, the Claims Commissioner, having jurisdiction over the area, shall cause wide publicity to be given, in such manner as he deems fit, for inviting applications for claiming compensation for nuclear damage.

14. Person entitled to make application for nuclear damage:- An application for compensation before the Claims Commissioner or the Commission, as the case may be, in respect of nuclear damage may be made by-

(a) a person who has sustained injury; or

(b) the owner of the property to which damage has been caused; or

(c) the legal representatives of the deceased; or

(d) any agent duly authorised by such person or owner or legal representatives,

15. Procedure for making application before Claims Commissioner :- (1) Every application for compensation before the Claims Commissioner for nuclear damage shall be made in such form, containing such particulars and accompanied by such documents, as may be prescribed.

(2) Subject to the provisions of section 18, every application under sub-section (1) shall be made within a period of three years from the date of knowledge of nuclear damage by the person suffering such damage.

16. Award by Claims Commissioner :- (1) On receipt of an application under sub-section (1) of section 15, the Claims Commissioner shall, after giving notice of such application to the operator and affording an opportunity of being heard to the parties, dispose of the application within a period of three months from the date of such receipt and make an award accordingly.

(2) While making an award under this section, the Claims Commissioner shall not take into consideration any benefit, reimbursement or amount received by the applicant in pursuance of contract of insurance taken by him or for members of his family or otherwise.

(3) Where an operator is likely to remove or dispose of his property with the object of evading payment by him of the amount of the award, the Claims Commissioner may, in accordance with the provisions of rules 1 to 4 of Order XXXIX of the First Schedule to the Code of Civil Procedure, 1908, (5 of 1908) grant a temporary injunction to restrain such act.

(4) The Claims Commissioner shall arrange to deliver copies of the award10 the parties within a period of fifteen days from the date of the award.

(5) Every award made under sub-section (1) shall be final.

17. Operator's right of recourse :- The operator of the nuclear installation, after paying the compensation for nuclear damage in accordance with section 6, shall have a right of recourse where-

(a) such right is expressly provided for in a contract in writing;

(b) the nuclear incident has resulted as a consequence of an act of supplier or his employee, which includes supply of equipment or material with patent or latent defects or sub-standard services;

(c) the nuclear incident has resulted from the act of commission or omission of an individual done with the intent to cause nuclear damage.

18. Extinction of right to claim :- The right to claim compensation for nuclear damage shall extinguish, if such claim is not made within a period of-

(a) ten years, in the case of damage to property;

(b) twenty years, in the case of personal injury to any person, from the date of occurrence of the incident notified under sub-section (1) of section 3:

Provided that where a nuclear damage is caused by a nuclear incident involving nuclear material which, prior to such nuclear incident, had been stolen, lost, jettisoned or abandoned, the said period of ten years shall be computed from the date of such nuclear incident, but, in no case, it-shall exceed a period of twenty years from the date of such theft, loss, jettison or abandonment.

CHAPTER V

NUCLEAR DAMAGE CLAIMS COMMISSION

19. Establishment of Nuclear Damage Claims Commission :- Where the Central Government, having regard to the injury or damage caused by a nuclear incident, is of the opinion that it is expedient in public interest that such claims for such damage to be adjudicated by the Commission instead of a Claims Commissioner, it may, by notification, establish a Commission for the purpose of this Act.

20. Composition of Commission :- (1) The Commission shall consist of a Chairperson and such other Members, not exceeding six, as the Central Government may, by notification, appoint.

(2) The Chairperson and other Members of the Commission shall be appointed on the recommendation of a Selection Committee consisting of three experts from amongst the persons having at least thirty years of experience in nuclear science and a retired Supreme Court Judge.

(3) A person shall not be qualified for appointment as the Chairperson of the Commission unless he has attained the age of fifty-five years and is or has been or qualified to be a Judge of a High Court:

Provided that no appointment of a sitting judge shall be made except after consultation with the Chief Justice of India.

(4) A person shall not be qualified for appointment as a Member unless he has attained the age of fifty-five years and-

(a) has held or is holding or qualified to hold, the post of Additional Secretary to 'the Government of India or any other equivalent post in the Central Government and possesses special knowledge in law relating to nuclear liability arising out of nuclear incident; or

(b) has been a Claims Commissioner for five years.

21. Term of office:- The Chairperson or a Member, as the case may be, shall hold office as such for a term of three years from the date on which he enters upon his office and shall be eligible for re-appointment for another term of three years:

Provided that no person shall hold office as such Chairperson or Member after he has attained the age of sixty-seven years.

22. Salary, allowances and other terms and conditions of service of Chairperson and Members:- The salary and allowances payable to and other terms and conditions of service, including pension, gratuity and other retirement benefits, of the Chairperson and other Members shall be such as may be prescribed:

Provided that no salary, allowances and other terms and conditions of service of the Chairperson or other Members shall be varied to his disadvantage after his appointment.

23. Filling up of vacancies:- If, for reasons other than temporary absence, any vacancy occurs in the office of the Chairperson or Member, as the case may be, the Central Government shall appoint another person in accordance with the provisions of this Act to fill such vacancy and the proceedings may be continued before the Commission from the stage at which it was, before the vacancy is filled.

24. Resignation and removal:- (1) The Chairperson or a Member may, by a notice in writing under his hand addressed to the Central Government, resign his office:

Provided that the Chairperson or the Member shall, unless he is permitted by the Central Government to relinquish his office sooner, continue to hold office until the expiry of three months from the date of receipt of such notice or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is earlier.

(2) The Central Government shall remove from office the Chairperson or a Member who-

(a) has been adjudged an insolvent; or

(b) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or

(c) has become physically or mentally incapable of acting as a Member; or

(d) has acquired such financial or other interest as is likely to affect prejudicially his functions as a Member; or

(e) has so abused his position as to render his continuance in office detrimental to the public interest:

Provided that no Member shall be removed under clause (d) or clause (e) unless he has been given an opportunity of being heard in the matter.

25. Chairperson or Member deemed to retire from service:- A person who, immediately before the date of assuming office as a Chairperson or a Member, was in service of the Government, shall be deemed to have retired from service on the date on which he enters upon office as such, but his subsequent service as the Chairperson or a Member shall be reckoned as continuing approved service counting for pension in service to which he belonged.

26. Suspension of pension:- If a person who, immediately before the date of assuming office as the Chairperson or a Member was in receipt of or being eligible so to do, has opted to draw, a pension, other than a disability or wound pension, in respect of any previous service under the Central Government, his salary in respect of service as the Chairperson or a Member shall be reduced--

(a) by the amount of that pension; and

(b) If he had, before assuming office, received, in lieu of a portion of the pension due to him in respect of such previous service, the commuted value thereof, by the amount of that portion of the pension.

27. Prohibition of acting as arbitrator:- No person shall, while holding office as a Chairperson or a Member, act as an arbitrator in any matter.

28. Prohibition of practice. On ceasing to hold office:- the Chairperson or a Member shall not appear, act or plead before the Commission.

29. Powers of Chairperson:- The Chairperson shall have the power of superintendence in the general administration of the Commission and exercise such powers as may be prescribed.

30. Officers and other employees of Commission:- (I) The Central Government shall provide the Commission with such officers and other employees as it may deem fit.

(2) The salary and allowances payable to and the terms and other conditions of service of officers and other employees of the Commission shall be such as may be prescribed.

31. Application for compensation before Commission:- (1) Every application for compensation before the Commission for nuclear damage shall be made in such form, containing such particulars and accompanied by such documents, as may be prescribed.

(2) Subject to the provisions of section 18, every application under sub-section (1) shall be made within a period of three years from the date of knowledge of nuclear damage by the person suffering such damage.

32. Adjudication procedure and powers of Commission:- (1) The Commission shall have original jurisdiction to adjudicate upon every application for compensation filed before it under sub-section (1) of section 31 or transferred to it under section 33 as the case may be.

(2) Upon transfer of cases to the Commission under section 33, the Commission shall hear such applications from the stage at which it was before such transfer.

(3) The Chairperson may constitute benches comprising of not more than three Members of the Commission for the purpose of hearing of claims and any decision thereon shall be rendered by a majority of the Members hearing such claims.

(4) The Commission shall not be bound by the procedure laid down in the Code of Civil Procedure, 1908 (5 of 1908) but shall be guided by the principles of natural justice and subject to the other provisions of this Act and of any rules made thereunder, the Commission shall have the rower to regulate its own procedure including the places and the times at which it shall have its sittings.

(5) The Commission shall have, for the purposes of discharging its functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, (5 of 1908) while trying a suit, in respect of the following matters, namely:-

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) the discovery and production of documents;

(c) receiving evidence on affidavits;

(d) requisitioning any public record or copies thereof from any court or office:

(e) issuing of commission for the examination of any witness;

(f) any other matter which may be prescribed.

(6) The Commission shall, after giving notice of application to the operator and after affording an opportunity of being heard to the parties, dispose of such application within a period of three months from the date of such receipt and make an award accordingly.

(7) While making an award under this section, the Commission shall not take into consideration any benefit, reimbursement or amount received by the applicant in pursuance of any contract of insurance or otherwise.

(8) Where an operator is likely to remove or dispose of his property with the object of evading payment by him of the amount of the award, the Commission may, in accordance with the provisions of rules 1 to 4 of Order XXXIX of the First Schedule to the Code of Civil Procedure, 1908 (5 of 1908), grant a temporary injunction to restrain such act.

(9) The Commission shall arrange to deliver copies of the award to the parties concerned within a period of fifteen days from the date of such award.

(10) Every award made under sub-section (6) shall be final.

33. Transfer of pending cases to Commission:- Every application for compensation pending before the Claims Commissioner immediately before the date of establishment of the Commission under section 19 shall stand transferred on that date to the Commission.

34. Proceedings before Claims Commissioner or Commission to be judicial proceedings:- Every proceeding before the Claims Commissioner or the Commission under this Act shall be deemed to be judicial proceeding within the meaning of sections 193, 219 and 228 of (45 of 1860), and for the purposes of section 196 of, the Indian Penal Code.

35. Exclusion of Jurisdiction of civil courts:- Save as otherwise provided in section 46, no civil court (except the Supreme Court and a High Court exercising jurisdiction under articles 226 and 227 of the Constitution) shall have jurisdiction to entertain any suit or proceedings in respect of any matter which the Claims Commissioner or the Commission, as the case may be, is empowered to adjudicate under this Act and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

36. Enforcement of awards:- (1) When an award is made under sub-section (1) of section 16 or under subsection (6) of section 32,-

(a) the insurer or any person, as the case may be, who under the contract of insurance or financial security under section 8 is required to pay any amount in terms of such award and to the extent of his liability under such contract, shall deposit that amount within such time and in such manner as the Claims Commissioner or the Commission, as the case may be, may direct; and

(b) the operator shall, subject to the maximum liability specified under subsection (2) of section 6, deposit the remaining amount by which such award exceeds the amount deposited under clause (a).

(2) Where any person referred to in sub-section (1) fails to deposit the amount of award within the period specified in the award, such amount shall be recoverable from such person as arrears of land revenue.

(3) The amount deposited under sub-section (1) shall be disbursed to such person as may be specified in the award within a period of fifteen days from the date of such deposit.

37. Annual report:- The Commission shall prepare, in such form and at such time in each financial year, as may be prescribed, an annual report giving full account of its activities during that financial year and submit a copy thereof to the Central Government which shall cause the same to be laid before each House of Parliament.

38. Dissolution of Commission in certain circumstances:- (1) Where the Central Government is satisfied that the purpose for which the Commission established under section 19 has served its purpose, or where the number of cases pending before such Commission is so less that it would not justify the cost of its continued function, or where it considers necessary or expedient so to do, the Central Government may, by notification, dissolve the Commission.

(2) With effect from the date of notification of dissolution of Commission under sub-section (1), -

(a) the proceeding, if any, pending before the Commission as on the date of such notification shall be transferred to the Claims Commissioner to be appointed by the Central Government under sub-section (2) of section 9;

(b) the Chairperson and all Members of the Commission shall be deemed to have vacated their offices as such and they shall not be entitled to any compensation for premature termination of their office;

(c) officers and other employees of the Commission shall be transferred to such other authority or offices of the Central Government, in such manner, as may be prescribed:

Provided that the officers and other employees so transferred, shall be entitled to the same terms and conditions of service as would have been held by them in the Commission:

Provided further that where an officer or an employee of the Commission refuses to join the services in such other authority or office, he shall be deemed to have resigned and shall not be entitled to any compensation for premature termination of contract of service;

(d) all assets and liabilities of the Commission shall vest in the Central Government.

(3) Notwithstanding the dissolution of the Commission under sub-section (1), anything done or any action taken or purported to have been done or taken including any order made or notice issued or any appointment, confirmation or declaration made or any document or instrument executed or any direction given by the Commission before such dissolution, shall be deemed to have been validly done or taken.

(4) Nothing in this section shall be construed to prevent the Central Government to establish the Commission subsequent to the dissolution of the Commission in accordance with the provisions of this Act.

CHAPTER VI

OFFENCES AND PENALTIES

39. Offence and penalties:- (1) Whoever -

(a) contravenes any rule made or any direction issued under this Act; or

(b) fails to comply with the provisions of section 8; or

(c) fails to deposit the amount under section 36,

shall be punishable with imprisonment for a term which may extend to five years or with fine or with both.

(2) Whoever fails to comply with any direction issued under section 43 or obstructs any authority or person in the exercise of his powers under this Act shall be punishable with imprisonment for a term which may extend to one year or with fine or with both,

40. Offences by companies:- (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed, was directly in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment under this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the of offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly. .

Explanation. - For the purposes of this section,-

(a) "company" means any body corporate and includes a firm or other association of individuals;

(b) “director”, in relation to a firm, means a partner in the firm.

41.Offences by Government Departments:- Where an offence under this Act has been committed by any Department of the Government, the Head of the Department shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this section shall render such Head of the Department liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

42. Cognizance of offences:- No court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence under this Act:

Provided that cognizance of such offence shall not be taken except on a complaint made by the Central Government or any authority or officer authorised in this behalf by that Government.

CHAPTER VI

MISCELLANEOUS

43. Power to give directions:- The Central Government may, in exercise of its powers and performance of its functions under this Act, issue such directions, as it may deem fit, for the purposes of this Act, to any operator, person, officer, authority or body and such operator, person, officer, authority or body shall be bound to comply with such directions.

44. Power to call for information:- The Central Government may call for such information from an operator as it may deem necessary.

45. Exemption from application of this Act:- The Central Government may, by notification, exempt any nuclear installation from the application of this Act where, having regard to small quantity of nuclear material, it is of the opinion that the risk involved is insignificant.

46. Act to be in addition to any other law:- The provisions of this Act shall be in addition to, and not in derogation of, any other law for the time being in force, and nothing contained herein shall exempt the operator from any proceeding which might, apart from this Act, be instituted against such operator.

47. Protection of action taken in good faith:- No suit, prosecution or other legal proceedings shall lie against the Central Government or the person, officer or authority in respect of anything done by it or him in good faith in pursuance of this Act or of any rule or order made, or direction issued, thereunder.

48. Power to make rules:- (1) The Central Government may, by notification, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing powers such rules may provide for:-

(a) the other financial security and the manner thereof under sub-section (I) of section 8;

(b) the salary and allowances payable to and the other terms and conditions of service of Claims Commissioner under section 11;

(c) the procedure to be followed by Claims Commissioner under sub-section (1) of section 12;

(d) the person to be associated by Claims Commissioner and the manner thereof, under sub-section (2) of section 12;

(e) the remuneration, fee or allowances of associated person under sub-section (3) of section 12;

(f) any other matter under clause (f) of sub-section (4) of section 12;

(g) the form of application, the particulars it shall contain and the documents it shall accompany, under sub-section (1)of section 15;

(h) the salary and allowances payable to and other terms and conditions of service of Chairperson and other Members, under section 22;

(i) the powers of Chairperson under section 29;

(j) the salary and allowances payable to and the terms and other conditions of service of officers and other employees of the Commission, under sub-section (2) of section 30;

(k) the form of application, the particulars it shall contain and the documents it shall accompany, under sub-section (1) of section 31;

(l) any other matter under clause (f) of sub-section (5) of section 32;

(m) the form and the time for preparing annual report by the Commission under section 37;

(n) the manner of transfer of officers and other employees of the Commission under clause (c) of sub-section (2) of section 38.

(3) Every rule made under this Act by the Central Government shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

49. Power to remove difficulties:- (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty:

Provided that no order shall be made under this section after the expiry of three years from the commencement of this Act.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament

V. K. BHASIN,

Secy. to the Govt. of India.

ಕರ್ನಾಟಕ ರಾಜ್ಯಪಾಲರ ಆದೇಶಾನುಸಾರ ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ,

ಆರ್. ಆಂಜಿನಿ,

ಸಹಾಯಕ ಪ್ರಾರೂಪಕಾರ ಮತ್ತು ಪದನಿಮಿತ್ತ

ಸರ್ಕಾರದ ಉಪ ಕಾರ್ಯದರ್ಶಿ,

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PR. No. 69